

Expungement Coversheet

The next six pages outline some of the requirements for when an expungement may be requested, when an expungement must be disclosed, etc. The remaining nine pages are examples of expungement motions and orders. Unfortunately, court staff cannot give legal advice. If you have questions about preparing an expungement beyond what is contained here, please consult an attorney.

In preparing your expungement paperwork, please be aware of the specific Court Rules as to style and paper size for court documents. Court rules require the following (the most frequent problems that cause rejection have been bolded):

... papers prepared ... for filing in the courts shall, ... be **typed with black ink on one side only of standard size (8 ½" x 11") sheets and shall include the name, address, and telephone number of the attorney (or of the defendant, if the defendant has no attorney) filing them.** Typing shall be double-spaced except that single spacing may be used for subparagraphs, legal descriptions of real estate, itemizations, quotations, and similar subsidiary portions of the instrument. The **Municipal Court docket number ... and the Wichita Police Department case number must be included** with the caption upon each pleading to be filed.

- Your original must be double-spaced, on one side only of 8 ½" by 11" paper.
- Include name, address, and telephone number (see sample).
- When filing, you will need to supply the original Motion and original Order with four (4) copies of each (total of 5 each).
- The sample Motions and Orders on pages 7 through 15 are just that- samples. You must use their wording and then personalize them by filling in the required information about your specific circumstances.
- The sample Motion and Order on pages 7-10 are for situations where you were arrested and charged with an offense. They are to be used if you are trying to expunge the arrest record(s) and the conviction(s) or a diversion/deferred judgment.
- The sample Motion and Order on pages 11-15 are for situations where you were arrested but never charged with an offense, where you were charged but the case was dismissed, or where you were charged and subsequently found "not guilty" after trial. They are to be used if you are trying to expunge arrest record(s) and the subsequent court proceedings, if any.
- If you need the information requested (dates, case numbers, etc.) you must request a self-record check for expungement from the Court Clerk's Office.
- The cost for filing an expungement is **\$75.00 per police case (not court case).**
- Motions are filed at the Attorney Window (adjacent to the Court Clerk's Office) between 8 a.m. and 4:45 p.m.

EXPUNGEMENT OF CONVICTION(S) OR DIVERSION/DEFERRED JUDGMENT(S) AND ARREST RECORDS

Charter Ordinance Number 204, Section 1, of the Code of the City of Wichita provides a procedure by which you may have your Municipal Court conviction(s) and/or diversion/deferred judgment(s), and the related arrest records, expunged.

REQUIREMENTS

Any person who has been convicted of an offense or has been placed on a diversion/deferred judgment for a violation of a City of Wichita Ordinance may petition the court for an order of expungement if three or more years have elapsed since the person:

1. Satisfied the sentence imposed; or
2. Was discharged from probation, parole or a suspended sentence; or
3. Fulfilled the terms of the diversion/deferred judgment agreement.

However, no person may petition for expungement until five or more years have elapsed since the person satisfied the sentence imposed, or fulfilled the terms of a diversion/deferred judgment agreement, or was discharged from probation, parole or suspended sentence if such person was convicted of or granted diversion/deferred judgment from a violation of one of the following crimes:

1. Driving while license is suspended or revoked (Section 11.42.030(c));
2. Failure to stop at the scene of an accident and perform the duties required (Sections 11.12.010, 11.12.020, 11.12.030, 11.12.040 and 11.12.050);
3. Failure to have Liability Insurance (Section 11.13.010); or
4. Any crime involving domestic violence, as that term is defined in Section 1.06.010

Per state law, you cannot expunge a conviction or diversion for driving under the influence of alcohol or drugs (Section 11.38.150) or driving a commercial vehicle while under the influence of alcohol or drugs (Section 11.38.155).

PROCEDURE FOR REQUESTING THE EXPUNGEMENT

To request an expungement of conviction and related arrest records or an expungement of diversion/deferred judgment and related arrest records, the petitioner must submit to the Municipal Court Clerk's Office an original plus four copies of the Motion and an original plus four copies of the Order.

The filing fee must accompany the Motion and Order.

The Court shall set a date for a hearing on the Motion. **You must attend the hearing.** Any expungement for crimes falling within the scope of the Victim's Rights Act requires notification of the hearing to the victim and he/she will be given an opportunity to address the Court regarding the motion for expungement.

The Motion and Order must contain the following information:

1. The Petitioner's full name;
2. The Petitioner's full name at the time of arrest, conviction or diversion/deferred judgment, if different;
3. The Petitioner's sex, race, date of birth and social security number;
4. The offense(s) and the ordinance number(s) for which the Petitioner was arrested, convicted, or diverted;
5. The date of arrest(s), conviction(s) or diversion/deferred judgment(s);
6. The citation number(s), docket number(s) and the Wichita Police Department Case Numbers for the conviction(s) or diversion(s)/deferred judgment(s);
7. The date showing the fulfillment of the terms of the diversion/deferred judgment agreement, or the conditions of parole/probation (if any);
8. Whether there has been a conviction of a felony in the past two (2) years and whether there are any traffic or criminal proceedings which are currently pending or will be instituted against the Petitioner in any court or jurisdiction; and
9. Facts setting forth the reason Petitioner's conviction(s) or diversion/deferred judgment(s) and related arrest records should be expunged;

A sample Motion and Order follows these instructions or is available from the Municipal Court Clerk's Office.

The Court shall order that the Petitioner's conviction(s), or diversion/deferred judgment(s), and related arrest records be expunged if the Court finds:

1. That the Petitioner has not been convicted of a felony in the past two (2) years and no proceedings involving any crime is pending or being instituted against the Petitioner;
2. That the circumstances and behavior of the Petitioner warrant the expungement; and
3. That the expungement is consistent with the public welfare.

Pursuant to Charter Ordinance 204, Section 1(g), after the Motion and Order has been approved, the Petitioner shall be treated as not having been arrested for, convicted of, or diverted from the crime except that:

1. Upon conviction or application for diversion for any subsequent crime, the conviction or diversion/deferred judgment that was expunged may be considered as a prior conviction or diversion/deferred judgment in determining the sentence to be imposed, or whether the Petitioner can be granted diversion for the subsequent crime;
2. The Petitioner shall disclose that the arrest, conviction, or diversion/deferred judgment occurred if asked about previous arrests, convictions or diversions/deferred judgments in the following circumstances:
 - a. In any application for employment as detective with a private detective agency; as security personnel with a private patrol operator; or with an institution of the Department of Social Rehabilitation Services;
 - b. In any application for admission or for an order of reinstatement to the practice of law in this state;
 - c. To aid in determining Petitioner's qualifications for employment with the Kansas lottery;
 - d. To aid in determining Petitioner's qualifications for employment with the Kansas racing commission, or for work in sensitive areas in pari-mutuel

- rating as deemed appropriate by the executive director of the commission and to aid in determining qualifications for licensure or renewal of licensure by the commission;
- e. Upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142 and amendments thereto;
 - f. To aid in determining the Petitioner's qualifications to be an employee of the state gaming agency;
 - g. To aid in determining the Petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or
 - h. In any application for registration as a broker-dealer, agent, investment adviser or investment adviser representative as defined in K.S.A. 17-1252, and amendments thereto; or
 - i. In any application for employment as a law enforcement officer as defined in K.S.A. 22-2202 or K.S.A. 74-5602, and amendments thereto.
- 3. The Court, in the Order of expungement, may specify other circumstances under which the arrest, conviction, or diversion/deferred judgment is to be disclosed; and
 - 4. The conviction or diversion/deferred judgment may be disclosed in a subsequent prosecution for an offense which requires as an element of such offense a prior conviction or diversion/deferred judgment of the type expunged.

Subject to the above noted disclosures, in any application for employment, license, or other civil right or privilege, or any appearance as a witness, if the Petitioner's arrest records, conviction, and/or diversion/deferred judgment has been expunged pursuant to Charter Ordinance 204, Section 1, that person may state that he/she has never been arrested, convicted, or diverted of such offense.

Please note, however, there are instances when the existence of arrest records, convictions, diversions/deferred judgments that have been expunged under City of Wichita Charter Ordinance 204, Section 1 may be disclosed. Please see Charter Ordinance 204, Section 1(j) for additional information.

EXPUNGEMENT OF ARREST RECORDS

Charter Ordinance Number 175, Section 13 of the Code of the City of Wichita provides a procedure by which any person who has been arrested for a violation of a city ordinance may petition the Municipal Court for expungement of the arrest records when:

1. No charges have been or are likely to be filed;
2. Charges have been dismissed; or
3. The Petitioner has been found not guilty in court proceedings.

For the purposes of this procedure, “expungement” means the sealing of records so that they are unavailable except to the Petitioner and criminal justice agencies, as provided by state law.

PROCEDURE FOR EXPUNGEMENT OF ARREST RECORDS

To request an expungement of arrest records, the Petitioner must submit to the Municipal Court Clerk’s Office an original and four copies of a Motion and Order. If the Motion includes **more than one arrest, an additional copy for each arrest must also be submitted.** The filing fee must accompany the Motion and Order.

The Court shall set a date for hearing on the Motion. **You must attend the hearing.** Any expungement for arrest records falling within the scope of the Victim’s Rights Act requires notification to the victim(s). At the hearing, the victim(s) will be given an opportunity to address the court regarding the expungement.

The Motion and Order for Expungement of Arrest Records must contain the following information:

1. The Petitioner’s full name;
2. The Petitioner’s full name at the time of arrest, if now different;
3. The Petitioner’s sex, race, date of birth, and social security number;
4. The offense(s) and the ordinance number(s) for which the Petitioner was arrested;
5. The date of arrest(s);
6. The Wichita Police Department Case Number(s) for the incident involving the arrest;
7. If the Petitioner was found not guilty in a court proceeding, or the charges have been dismissed, the applicable court, the case number or docket number and the date of final disposition.

A sample Motion for Expungement of Arrest Records and Order for Expungement of Arrest Records follows these instructions or is available from the Municipal Court Clerk’s Office.

The Court shall order the Petitioner’s arrest records expunged if the Court finds:

1. The arrest occurred because of mistaken identity; or
2. A court has found that there was no probable cause for the arrest; or
3. The Petitioner was found not guilty in court proceedings; or
4. The expungement would be in the best interests of justice and either:
 - a. Charges have been dismissed, or
 - b. No charges have been or are likely to be filed.

The Order of Expungement of Arrest Records shall state the information required to be stated in the Motion and shall state the grounds for expungement as set forth in (1) through (4) above. If an order of expungement of arrest is entered, the Petitioner shall be treated as not having been arrested. However, pursuant to Charter Ordinance 175, Section 13(1)(e), if the grounds for expungement are as provided in (4) above, the court shall determine if, in the interest of public welfare, the records should be available for any of the following purposes:

1. In any application for employment as a detective with a private detective agency, as security personnel with a private patrol operator, or with an institution of the Department of Social Rehabilitation Services;
2. In any application for admission, or for an order of reinstatement, to the practice of law in this state;
3. To aid in determining Petitioner's qualifications for employment with the Kansas Lottery;
4. To aid in determining Petitioner's qualifications for employment with the Kansas racing commission, or for work in sensitive areas in pari-mutuel racing as deemed appropriate by the executive director of the commission and to aid in determining qualifications for licensure or renewal of licensure by the commission;
5. Upon application for a commercial driver's license under K.S.A. 8-2,125 through 8-2,142;
6. To aid in determining the Petitioner's qualifications to be an employee of the state gaming agency;
7. To aid in determining the Petitioner's qualifications to be an employee of a tribal gaming commission or to hold a license issued pursuant to a tribal-state gaming compact; or
8. In any other circumstances which the court deems appropriate.

Subject to any disclosures required by the Court in the Order of Expungement of Arrest Records, a person whose arrest records have been expunged may state that such person has never been arrested in any application for employment, license, or other civil right or privilege, or as part of any appearance as a witness.